

## REMARKS

Claims 1, 2, and 4 to 17 are pending in this application and stand rejected. Applicant requests reconsideration and withdrawal of the rejections, as discussed more fully below.

### **Preliminary Matter regarding Information Disclosure Statement**

Applicant requests the Office to acknowledge review of EP-A2-0,820,183 submitted on the Form PTO-1449 mailed August 26, 2004 by initialing the entry.

### **Rejection under 35 U.S.C. § 102(e)**

Claims 1, 2, and 5 to 17 are rejected under 35 U.S.C. § 102(e) as anticipated by US 2002/0010769 (hereinafter referred to as the "Kippenhan Application"). Applicant traverses the rejection because the Office has not established that the Kippenhan Application has a 102(e) date that pre-dates the earliest effective filing date of the instant application.

The instant application was filed on May 14, 2001 and claims the benefit of earlier filed U.S. Application No. 60/204,606, filed *May 16, 2000*.

The Kippenhan Application has a filing date of *January 23, 2001* and claims the benefit of two earlier applications (U.S. Application No. 60/216,472, filed *July 6, 2000* and U.S. Application No. 09/338,912, filed *June 23, 1999*). The Kippenhan Application is only entitled to the benefit of the filing date of these earlier applications under 35 U.S.C. § 119(e) and under 35 U.S.C. § 120, respectively, *if the earlier applications properly support the subject matter relied upon to make the rejection* in compliance with 35 U.S.C. 112, first paragraph (MPEP § 2136.03). The subject matter of U.S. Application No. 60/216,472 having a filing of July 6, 2000 is *not* earlier enough to establish an effective 102(e) date before the earliest priority date of the subject application of May 16, 2000. Applicant further submits that the Office has *not* established that U.S. Application No. 09/338,912 filed June 23, 1999 properly supports the subject matter relied upon to make the rejection in compliance with 35

**DOCKET NO.:** CING-0036/573.US  
**Application No.:** 09/855,117  
**Office Action Dated:** August 9, 2006

**PATENT**

U.S.C. 112, first paragraph. Accordingly, since the Office has not established that the Kippenhan Application is a proper 102(e) reference and without conceding the merits otherwise of the rejection, applicant respectfully requests that the rejection of claims 1, 2, and 5 to 17 under 35 U.S.C. § 102(e) as anticipated by the Kippenhan Application be withdrawn.

**Rejection under 35 U.S.C. § 103(a)**

Claim 4 is rejected under 35 U.S.C. § 103(a) as obvious over the Kippenhan Application in view of US-B-6,185,198 (hereinafter "the LaDue Patent"). Applicant traverses the rejection because the Office has not established that the Kippenhan Application is a proper 102(e) reference and as such cannot support an obviousness rejection in combination with any secondary reference.

Because the Kippenhan Application is not a proper 102(e) reference and without conceding the merits otherwise of the rejection, applicant respectfully requests that the rejection of claim 4 under 35 U.S.C. § 103(a) as obvious over the Kippenhan Application in view of the LaDue Patent be withdrawn.

DOCKET NO.: CING-0036/573.US  
Application No.: 09/855,117  
Office Action Dated: August 9, 2006

PATENT

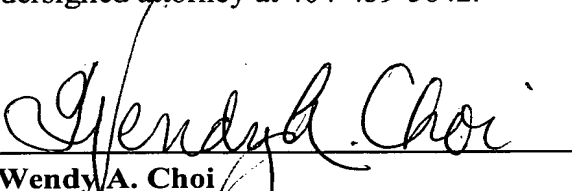
**Conclusions**

Applicant respectfully requests:

- (1) acknowledgment that EP-A2-0,820,183 was considered by initialing copy of Form PTO-1449; and
- (2) reconsideration and withdrawal of the rejections of the claims.

If the Examiner believes a telephone conference would expedite prosecution of this application, the Examiner is invited to contact the undersigned attorney at 404-459-5642.

Date: **September 12, 2006**

  
Wendy A. Choi  
Registration No. 36,697

WOODCOCK WASHBURN LLP  
One Liberty Place - 46th Floor  
Philadelphia PA 19103  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439